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1 AMENDMENT TO HOUSE BILL 1517

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1517 by replacing  
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the  
5 Disposition of Remains Act.

6 Section 5. Right to control disposition; priority. Unless a  
7 decedent has left directions in writing for the disposition of  
8 the decedent's remains as provided in Section 65 of the  
9 Crematory Regulation Act or in subsection (a) of Section 40 of  
10 this Act, the following persons, in the priority listed, have  
11 the right to control the disposition, including cremation, of  
12 the decedent's remains and are liable for the reasonable costs  
13 of the disposition:

14 (1) the person designated in a written instrument that  
15 satisfies the provisions of Sections 10 and 15 of this Act;

16 (2) any person serving as executor or legal  
17 representative of the decedent's estate and acting  
18 according to the decedent's written instructions contained  
19 in the decedent's will;

20 (3) the individual who was the spouse of the decedent  
21 at the time of the decedent's death;

22 (4) the sole surviving competent adult child of the  
23 decedent, or if there is more than one surviving competent  
24 adult child of the decedent, the majority of the surviving

1           competent adult children; however, less than one-half of  
2           the surviving adult children shall be vested with the  
3           rights and duties of this Section if they have used  
4           reasonable efforts to notify all other surviving competent  
5           adult children of their instructions and are not aware of  
6           any opposition to those instructions on the part of more  
7           than one-half of all surviving competent adult children;

8           (5) the surviving competent parents of the decedent; if  
9           one of the surviving competent parents is absent, the  
10          remaining competent parent shall be vested with the rights  
11          and duties of this Act after reasonable efforts have been  
12          unsuccessful in locating the absent surviving competent  
13          parent;

14          (6) the surviving competent adult person or persons  
15          respectively in the next degrees of kindred or, if there is  
16          more than one surviving competent adult person of the same  
17          degree of kindred, the majority of those persons; less than  
18          the majority of surviving competent adult persons of the  
19          same degree of kindred shall be vested with the rights and  
20          duties of this Act if those persons have used reasonable  
21          efforts to notify all other surviving competent adult  
22          persons of the same degree of kindred of their instructions  
23          and are not aware of any opposition to those instructions  
24          on the part of one-half or more of all surviving competent  
25          adult persons of the same degree of kindred;

26          (7) in the case of indigents or any other individuals  
27          whose final disposition is the responsibility of the State  
28          or any of its instrumentalities, a public administrator,  
29          medical examiner, coroner, State appointed guardian, or  
30          any other public official charged with arranging the final  
31          disposition of the decedent;

32          (8) in the case of individuals who have donated their  
33          bodies to science, or whose death occurred in a nursing  
34          home or other private institution, who have executed

1 cremation authorization forms under Section 65 of the  
2 Crematory Regulation Act and the institution is charged  
3 with making arrangements for the final disposition of the  
4 decedent, a representative of the institution; or

5 (9) any other person or organization that is willing to  
6 assume legal and financial responsibility.

7 As used in Section, "adult" means any individual who has  
8 reached his or her eighteenth birthday.

9 Section 10. Form. The written instrument authorizing the  
10 disposition of remains shall be in substantially the following  
11 form:

12 "APPOINTMENT OF AGENT TO CONTROL DISPOSITION OF REMAINS

13 I, ....., being of sound  
14 mind, willfully and voluntarily make known my desire that,  
15 upon my death, the disposition of my remains shall be  
16 controlled by ..... (name of agent) and,  
17 with respect to that subject only, I hereby appoint such  
18 person as my agent (attorney-in-fact). All decisions made  
19 by my agent with respect to the disposition of my remains,  
20 including cremation, shall be binding.

21 SPECIAL DIRECTIONS:

22 Set forth below are any special directions limiting  
23 the power granted to my agent:

24 .....  
25 .....  
26 .....

27 AGENT:

28 Name: .....

1 Address: .....

2 Telephone Number: .....

3 Acceptance of Appointment: .....

4 Signature of Agent: .....

5 Date of Signature: .....

6 SUCCESSORS:

7 If my agent dies, becomes legally disabled, resigns, or

8 refuses to act, I hereby appoint the following persons

9 (each to act alone and successively, in the order named) to

10 serve as my agent (attorney-in-fact) to control the

11 disposition of my remains as authorized by this document:

12 1. First Successor

13 Name: .....

14 Address: .....

15 Telephone Number: .....

16 Signature Indicating Acceptance of Appointment: .....

17 Date of Signature: .....

18 2. Second Successor

19 Name: .....

20 Address: .....

21 Telephone Number: .....

22 Signature Indicating Acceptance of Appointment

23 .....

24 Date of Signature: .....

25 DURATION:

26 This appointment becomes effective upon my death.

27 PRIOR APPOINTMENTS REVOKED:

1 I hereby revoke any prior appointment of any person to  
2 control the disposition of my remains.

3 RELIANCE:

4 I hereby agree that any cemetery organization,  
5 business operating a crematory or columbarium or both,  
6 funeral director or embalmer, or funeral establishment who  
7 receives a copy of this document may act under it. Any  
8 modification or revocation of this document is not  
9 effective as to any such party until that party receives  
10 actual notice of the modification or revocation. No such  
11 party shall be liable because of reliance on a copy of this  
12 document.

13 ASSUMPTION:

14 THE AGENT, AND EACH SUCCESSOR AGENT, BY ACCEPTING THIS  
15 APPOINTMENT, AGREES TO AND ASSUMES THE OBLIGATIONS  
16 PROVIDED HEREIN.

17 Signed this ..... day of ....., .....

18 STATE OF .....

19 COUNTY OF .....

20 BEFORE ME, the undersigned, a Notary Public, on this  
21 day personally appeared ....., proved to me  
22 on the basis of satisfactory evidence to be the person  
23 whose name is subscribed to the foregoing instrument and  
24 acknowledged to me that he/she executed the same for the  
25 purposes and consideration therein expressed.

1 GIVEN UNDER MY HAND AND SEAL OF OFFICE this ..... day  
2 of ....., 2.....

3 Printed Name: .....  
4 Notary Public, State of .....

5 My Commission Expires:  
6 .....".

7 Section 15. Requirements for written instrument. A written  
8 instrument is legally sufficient under Section 5 if the wording  
9 of the instrument complies substantially with Section 10, the  
10 instrument is properly completed, the instrument is signed by  
11 the decedent, the agent, and each successor agent, and the  
12 signature of the decedent is notarized. The written instrument  
13 may be modified or revoked only by a subsequent written  
14 instrument that complies with this Section.

15 Section 20. Duties of authorized agent.

16 (a) A person listed in Section 5 has the right, duty, and  
17 liability provided by that Section only if there is no person  
18 in a priority listed before the person.

19 (b) If any person who would otherwise have the right to  
20 control disposition pursuant to Section 5 has been charged with  
21 first or second degree murder or voluntary manslaughter in  
22 connection with the decedent's death and those charges are  
23 known to the funeral director or cemetery authority, that  
24 person's right to control is relinquished and passed on to the  
25 next listed person or group of persons in accordance with  
26 Section 5.

27 Section 25. Body parts. In the case of body parts, a  
28 representative of the institution that has arranged with a

1 funeral home, cemetery, or crematory authority to cremate or  
2 make other appropriate disposition of the body parts may serve  
3 as the authorizing agent.

4 Section 30. Prohibition of cremation; written  
5 instructions. No person shall be allowed to authorize cremation  
6 when a decedent has left written instructions that he or she  
7 does not wish to be cremated.

8 Section 35. Misrepresentation; liability. A person who  
9 represents that he or she knows the identity of a decedent and,  
10 in order to procure the disposition, including cremation, of  
11 the decedent's remains, signs an order or statement, other than  
12 a death certificate, warrants the identity of the decedent and  
13 is liable for all damages that result, directly or indirectly,  
14 from that warrant.

15 Section 40. Directions by decedent.

16 (a) A person may provide written directions for the  
17 disposition, including cremation, of the person's remains in a  
18 will, a prepaid funeral, burial or cremation contract, or in a  
19 written instrument that satisfies the provisions of Sections 10  
20 and 15 and that is signed by the person and notarized. The  
21 directions may be modified or revoked only by a subsequent  
22 writing signed by the person and notarized. The person  
23 otherwise entitled to control the disposition of a decedent's  
24 remains under this Act shall faithfully carry out the  
25 directions of the decedent to the extent that the decedent's  
26 estate or the person controlling the disposition are  
27 financially able to do so.

28 (b) If the directions are in a will, they shall be carried  
29 out immediately without the necessity of probate. If the will  
30 is not probated or is declared invalid for testamentary  
31 purposes, the directions are valid to the extent to which they

1 have been acted on in good faith.

2 Section 45. Liability. There shall be no liability for a  
3 cemetery organization, a business operating a crematory or  
4 columbarium or both, a funeral director or an embalmer, or a  
5 funeral establishment that carries out the written directions  
6 of a decedent or the directions of any person who represents  
7 that the person is entitled to control the disposition of the  
8 decedent's remains. Nothing herein shall be intended or  
9 construed to reduce or eliminate liability for the gross  
10 negligence or willful acts of any cemetery organization,  
11 business operating a crematory or columbarium or both, funeral  
12 director or embalmer, or funeral establishment.

13 Section 50. Disputes. Any dispute among any of the persons  
14 listed in Section 5 concerning their right to control the  
15 disposition, including cremation, of a decedent's remains  
16 shall be resolved by a court of competent jurisdiction. A  
17 cemetery organization or funeral establishment shall not be  
18 liable for refusing to accept the decedent's remains, or to  
19 inter or otherwise dispose of the decedent's remains, until it  
20 receives a court order or other suitable confirmation that the  
21 dispute has been resolved or settled.

22 Section 300. The Crematory Regulation Act is amended by  
23 changing Section 15 as follows:

24 (410 ILCS 18/15)

25 Sec. 15. Authorizing agent. The priority of the person or  
26 persons who have the right to serve as the authorizing agent  
27 for cremation is in the same priority as provided for in  
28 Section 5 of the Disposition of Remains Act.

29 ~~(a) The following persons, in the priority listed, shall~~  
30 ~~have the right to serve as an authorizing agent:~~

1           ~~(1) The individual who was the spouse of the decedent~~  
2 ~~at the time of the decedent's death, except as set forth in~~  
3 ~~paragraphs (2) or (3) of this subsection.~~

4           ~~(2) Any person acting on the instructions of a decedent~~  
5 ~~who authorized his or her own cremation through the~~  
6 ~~execution, on a pre need basis, of a cremation~~  
7 ~~authorization form under Section 70, unless the~~  
8 ~~authorization specifically provides for a designated~~  
9 ~~survivor to alter the arrangements under subsection (b) of~~  
10 ~~Section 70, and the designated survivor has contacted the~~  
11 ~~crematory authority and expressed the desire to alter the~~  
12 ~~arrangements. The actions of such a designated survivor,~~  
13 ~~however, shall not prevent another individual, who has a~~  
14 ~~priority right superior to that of the designated survivor~~  
15 ~~according to this Section, from authorizing the cremation~~  
16 ~~of the decedent by executing a new cremation authorization~~  
17 ~~form.~~

18           ~~(3) Any person serving as executor or legal~~  
19 ~~representative of a decedent's estate and acting according~~  
20 ~~to the decedent's written instructions.~~

21           ~~(4) The decedent's surviving adult children. If there~~  
22 ~~is more than one adult child, any adult child, who confirms~~  
23 ~~in writing the notification of all other adult children,~~  
24 ~~may serve as the authorizing agent, unless the crematory~~  
25 ~~authority receives a written objection to the cremation~~  
26 ~~from another adult child.~~

27           ~~(5) The decedent's surviving parent. If the decedent is~~  
28 ~~survived by 2 parents, either parent may serve as the~~  
29 ~~authorizing agent unless the crematory authority receives~~  
30 ~~a written objection to the cremation from the other parent.~~

31           ~~(6) The person in the next degree of kinship under the~~  
32 ~~laws of descent and distribution to inherit the estate of~~  
33 ~~the decedent. If there is more than one person of the same~~  
34 ~~degree, any person of that degree may serve as the~~

1 ~~authorizing agent.~~

2 ~~(7) In the case of indigents or any other individuals~~  
3 ~~whose final disposition is the responsibility of the State~~  
4 ~~or any of its instrumentalities, a public administrator,~~  
5 ~~medical examiner, coroner, State appointed guardian, or~~  
6 ~~any other public official charged with arranging the final~~  
7 ~~disposition of the decedent may serve as the authorizing~~  
8 ~~agent.~~

9 ~~(8) In the case of individuals who have donated their~~  
10 ~~bodies to science or whose death occurred in a nursing home~~  
11 ~~or other private institution, who have executed cremation~~  
12 ~~authorization forms under Section 65 and the institution is~~  
13 ~~charged with making arrangements for the final disposition~~  
14 ~~of the decedent, a representative of the institution may~~  
15 ~~serve as the authorizing agent.~~

16 ~~(9) In the absence of any person under paragraphs (1)~~  
17 ~~through (8), any person willing to assume the~~  
18 ~~responsibility as authorizing agent, as specified in this~~  
19 ~~Act.~~

20 ~~(b) In the case of body parts, a representative of the~~  
21 ~~institution that has arranged with the crematory authority to~~  
22 ~~cremate the body part may serve as the authorizing agent.~~

23 ~~(c) No person may serve or shall be allowed to serve as an~~  
24 ~~authorizing agent when a decedent has left instructions in the~~  
25 ~~manner provided under subsection (a) of this Section that they~~  
26 ~~do not wish to be cremated.~~

27 (Source: P.A. 87-1187.)".